



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Supplemental Consent Decree  
under the Comprehensive Environmental Response Compensation and Liability Act

On October 10, 2012, the Department of Justice lodged a proposed Supplemental Consent Decree with the United States District Court for the District of Massachusetts in the lawsuit entitled, *United States and Massachusetts v. AVX Corporation*, Civil Action No. 83-3882-Y.

In 1983, the United States and Massachusetts commenced suit against AVX Corporation (“AVX”) alleging that AVX was liable to the governments for natural resource damages and later amended the suit to seek response costs under the Superfund statute and other legal authorities. That litigation against AVX was concluded when the governments entered into a Consent Decree with AVX in 1992, resolving AVX’s liability subject to the governments’ rights to further pursue the claims under a reservation of rights under CERCLA that authorizes the governments to seek additional relief based on unknown conditions or new information and another reservation of rights that allows the governments to seek additional relief from AVX should certain response costs exceed \$130.5 million (“reopeners”). This Supplemental Consent Decree resolves AVX’s liability for response costs and injunctive relief under both the unknown conditions/new information and cost-related reopeners under the 1992 Consent Decree. Upon entry of the Supplemental Consent Decree, the Unilateral Administrative Order (“UAO”) issued, pursuant to Section 106 of CERCLA, by EPA Region 1 on April 18, 2012 (whose “effective date” has currently been delayed until November 1, 2012) will be withdrawn. Mediated

negotiations between the governments and AVX that were conducted following EPA’s issuance of the UAO resulted in the Supplemental Consent Decree.

Under the terms of the Supplemental Consent Decree, AVX Corporation will pay an additional \$366.25 million with interest (in addition to the \$59 million, plus interest, that AVX paid for response costs in the 1992 Consent Decree) in three payments spanning two years and will provide financial assurance to secure the required payments. The governments will release their claims for all response costs and injunctive relief without new “reopeners” under Sections 106 and 107 of CERCLA, among other alleged claims. The governments retain their rights to additional relief for natural resource damages pursuant to a reservation of rights in the 1992 Consent Decree.

The publication of this notice initiates a 30-day period for public comment on the Supplemental Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and Massachusetts v. AVX Corporation*, D.J. Ref. No. 90-11-2-32/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611.

During the 30-day comment period, a person may request an opportunity for a public meeting in the affected area in accordance with Section 7003 of RCRA, 42 U.S.C. § 6973,

regarding the Decree's covenant not to sue under Section 7003. The 30-day comment period may not be extended if a request for a meeting is not timely received to allow for the submission of comments within 30 days. During the public comment period, the Supplemental Consent Decree may be examined and downloaded at this Justice Department website:

[http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). We will provide a paper copy of the Supplemental Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$19.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits, the cost is \$6.50.

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[FR Doc. 2012-25488 Filed 10/16/2012 at 8:45 am; Publication Date: 10/17/2012]